

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

04 11913 MLW

RENEE MESSANA, PAUL DEMEO, PAUL )  
MESSANA, INDIVIDUALLY AND AS NEXT )  
FRIEND OF RAYMOND MESSANA and )  
ARIANA MESSANA, )  
Plaintiffs )  
)  
v. )  
)  
ACRES OF WILDLIFE CAMPGROUND, INC., )  
Defendant )  
)

MAGISTRATE JUDGE Colvin

COMPLAINT  
AND DEMAND  
FOR JURY TRIAL

RECEIPT # 58338  
AMOUNT \$130  
SUMMONS ISSUED 105  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY. CLK FUM  
DATE 9/1/04

I. INTRODUCTION:

1. This is a complaint for personal injury, negligence, negligent infliction of emotional distress, loss of consortium, impairment of earning capacity, breach of warranty of habitability and interference with quiet enjoyment brought by the Plaintiffs, residents of Everett, Middlesex County, Massachusetts, (hereinafter "Plaintiffs") against Acres of Wildlife Campground Inc., a Maine corporation with a principal place of business located at P.O. Box 1230, Lewiston, Maine (hereinafter "Defendant").

38

The Plaintiffs leased a camp site seasonally from the Defendant, having first become acquainted with Defendant through friends and attending displays and offerings of the Defendant at the New England Camping Show at the Bayside

Expo Center in Boston, Suffolk County, Massachusetts. On July 1, 2002, while in a tent at the Defendant's campsite, a barkless tree located on or adjacent to the site fell and landed on a tent occupied by thirty-seven-year-old Renee Messana causing her severe head trauma, excruciating and ongoing pain, suffering and emotional distress. This injury occurred in the presence of her husband and three children, two of whom were inside the tent when the tree fell.

II. JURISDICTION AND OTHER RELEVANT LAW:

2. This court has jurisdiction of the within matter pursuant to 28 U.S.C, Section 1332. The Plaintiffs and Defendant are citizens of different states and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. The facts, as set forth herein, establish that a justiciable controversy exists between the Plaintiffs and the Defendant.

III. PARTIES:

3. Plaintiff, Renee Messana, is an individual with a principal place of residence at 36 Hillside Avenue, Everett, Middlesex County, Massachusetts, where she resides with her husband and three children. She is a citizen of the United States.
4. Plaintiff, Paul Messana, the husband of Renee Messana, is an individual with a principal place of residence at 36 Hillside Avenue, Everett, Middlesex County, Massachusetts. He is a citizen of the United States.

5. Plaintiff, Raymond Messana , the minor child of Renee and Paul Messana, is an individual with a principal place of residence at 36 Hillside Avenue, Everett, Middlesex County, Massachusetts. He is a citizen of the United States
6. Plaintiff, Ariana Messana, the minor child of Renee and Paul Messana, is an individual with a principal place of residence at 36 Hillside Avenue, Everett, Middlesex County Massachusetts. She is a citizen of the United States.
7. Plaintiff, Paul DeMeo, the son of Renee Messana is an individual with a principal place of residence at 36 Hillside Avenue, Everett, Middlesex County, Massachusetts. He is a citizen of the United States.
8. Defendant, Acres of Wildlife Campground, Inc., is a Maine Corporation with a principal place of business at P.O. Box 2, Steep Falls, Cumberland County, Maine.

IV. FACTS:

9. In the year 2002, Plaintiffs were tenants under a seasonal lease with the Defendant at Acres of Wildlife Campground, Inc., campsite #20, Seasonal Otter Rd., Steep Falls, Maine.
10. The lease period was from May 1, 2002 until October 14, 2002 at the rate of one thousand nine hundred seventy nine (\$1,979.50) dollars and fifty cents inclusive of

a 7% state tax.

11. On the morning of July 1, 2002, a clear and calm day, at approximately 7:45 a.m., a dead and barkless tree located on or adjacent to the campsite fell onto the tent occupied by Plaintiff Renee Messana, Raymond Messana and Ariana Messana in the presence of her husband Plaintiff Paul Messana and her sixteen year-old son Paul DeMeo.
12. Paul Messana, the husband of Renee Messana, attempted to assist his wife by lifting the tree off of her as she lay unconscious in the tent; while sixteen year old Paul DeMeo extricated his younger brother and sister from the tent.
13. Renee Messana was rushed by ambulance to the Maine Medical Center, 22 Bramhall Street, Portland, Maine, where she remained in the Intensive Care Unit for five days.
14. Renee Messana was admitted to the Maine Medical Center by Dr. Virginia Eddy, who, after viewing x-rays of Ms. Messana, concluded that, "Images through the facial bones and corneal reformations reveal multiple severe facial fractures." In addition, Renee Messana fractured the base of her skull and received serious injury to her sinuses and several fractures to her nasal bones.

15. Renee Mesanna was released from the Maine Medical Center on Friday, July 5, 2002 and immediately returned to Massachusetts. On an emergency basis, the following Monday, July 8, 2002, Renee Mesanna was seen by a neurologist, Dr. Shapur Ameri, who admitted her to the Boston Medical Center on July 9, 2002 where she remained until July 11, 2002.
16. As a result of her severe and extensive injuries Renee Messana has seen eight different medical specialists, attended in excess of thirty two medical office appointments, received a series of x-rays, CAT scans and underwent two surgeries, the most recent being sinus surgery on May 14, 2003.
17. The massive trauma experienced by Renee Messana has caused her constant head pain and left her acutely sensitive to noise and light. Furthermore, Ms Messana lost her sense of taste and hearing in her left ear.
18. Renee Messana was unable to care for her children ages 4, 6, and 16 or perform ordinary household chores for six months. She remains in pain and impaired through this date.
19. In July of 2003, to perform mother and homemaker chores, Renee Messana's sister, Denise DeMeo, left her job in Pennsylvania and came to Renee Messana's home to care for her and her children for four months.

20. As a result of her injuries, Ms. Messana was confined to her room for a period of four months and except for medical reasons, Plaintiff Renee Messana was unable to leave her home for six months following her injuries.
21. Ms. Messana cannot tolerate light or noise since being struck. She is also obsessively fearful for her own safety and the safety of her family.
22. Renee Messana experiences excruciating pain as a result of the devastating head and facial fractures she received. None of these conditions existed prior to being struck by the tree.

COUNT I  
NEGLIGENCE

23. Plaintiffs repeat, reallege, and incorporate paragraphs 1-22 of this complaint as if fully set forth herein.
24. The Defendant owed the Plaintiffs a duty of reasonable care for those areas that were in its exclusive control in and surrounding the campsite leased by the Plaintiffs.
25. The Defendant breached its duty to the Plaintiffs by failing to maintain the premises in a safe and reasonable condition so that a dead and barkless tree remained

standing on or adjacent to the camp site and fell onto the tent of Plaintiff Renee Messana, Raymond Messana and Ariana Messana causing serious bodily harm to Renee Messana in the presence of her husband and three minor children.

26. The Defendant knew or should have known that the dead and barkless tree that fell on Renee Messana posed a present danger and likelihood of harm to those persons on its property and therefore the harm that resulted to the Plaintiff was a reasonable foreseeable consequence of the Defendant's act or failure to act.

**COUNT II**  
**BREACH OF IMPLIED WARRANTY OF HABITABILITY**

27. Plaintiffs repeat, reallege, and incorporate paragraphs 1-26 of this complaint as if fully set forth herein.
28. Implicit in all rental agreements is the requirement that the premises let are fit for the purpose intended and that said premises are habitable.
29. The Plaintiffs leased the subject campsite from the Defendant and as a result of its negligent maintenance the premises was in violation of the implied warranty of habitability and fitness for the purpose for which it was intended, to wit: a campsite maintained in a safe and reasonable manner.

**COUNT III**  
**INTERFERENCE WITH QUIET ENJOYMENT OF THE PREMISES**

30. Plaintiffs repeat, reallege, and incorporate paragraphs 1-29 of this complaint as if fully set forth herein.
31. The Defendant, Lessor, directly or indirectly interfered with the Plaintiffs, Lessees quiet enjoyment of the property by failing to maintain the property in compliance with applicable law.

**COUNT IV**  
**NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**  
RENEE MESSANA

32. Plaintiff, Renee Messana repeats, realleges, and incorporates paragraphs 1-31 of this complaint as if fully set forth herein.
33. Defendant had a duty to maintain the demised premises in a safe and habitable manner. The injury that resulted to Plaintiff, Renee Messana, caused her severe and substantial physical harm as well as severe emotional distress.

**COUNT V**  
**NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**  
PAUL DEMEO

34. Plaintiff, Paul DeMeo repeats, realleges, and incorporates paragraphs 1-33 of this

complaint as if fully set forth herein.

35. As a result of the negligence of the Defendant, Plaintiff Paul DeMeo suffered emotional distress.
36. At the time of the injury Plaintiff Paul DeMeo was sixteen years old and was standing outside of the tent when the tree fell onto his mother, fracturing her skull and rendering her unconscious.
37. Plaintiff Paul DeMeo not only witnessed the tree fall on the tent, but also dragged his unconscious mother from the tent.

COUNT VI  
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS  
RAYMOND MESSANA

38. Plaintiff Paul Messana, as next friend of Raymond Messana, repeats, realleges, and incorporates paragraphs 1-37 of this complaint as if fully set forth herein.
39. As a result of the negligence of the Defendant, Raymond Messana suffered emotional distress.
40. Four year-old Raymond Messana was inside the tent when the tree fell onto his mother, fracturing her skull and rendering her unconscious.

41. Raymond Messana, who received minor injuries, witnessed his father, Plaintiff Paul Messana lift the tree off of his mother while his brother, Plaintiff Paul DeMeo dragged his unconscious mother from the tent on the morning of July 1, 2002.

COUNT VII  
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS  
PAUL MESSANA

42. Plaintiff, Paul Messana repeats, realleges, and incorporates paragraphs 1-41 of this complaint as if fully set forth herein.

43. As a result of the negligence of the Defendant, Plaintiff Paul Messana suffered emotional distress.

44. At the time of the injury Plaintiff Paul Messana was in a trailer next to the tent where his wife and two young children were sleeping. Mr. Messana ran to the window of the trailer when he heard the loud noise of the falling tree and witnessed it fall onto the tent occupied by his wife, and two children Raymond and Ariana.

45. Plaintiff Paul Messana not only heard the horrifying noise of the tree fall and crush his wife's skull but also was anguished over the screams of his small children as he lifted the tree off of his wife who was unconscious on the floor of the tent.

COUNT VIII  
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

ARIANA MESSANA

46. Plaintiff Paul Messana, as next friend of Ariana Messana, repeats, realleges, and incorporates paragraphs 1-45 of this complaint as if fully set forth herein.
47. As a result of the negligence of the Defendant, Ariana Messana suffered emotional distress.
48. Six year-old Ariana Messana was inside the tent when the tree fell onto her mother, fracturing her mother's skull and rendering her unconscious.
49. Ariana Messana witnessed her father, Plaintiff Paul Messana lift the tree off of her mother while Plaintiff Paul DeMeo pulled her unconscious mother from the tent.

COUNT IX  
IMPAIRMENT OF EARNING COMPACITY  
RENEE MESSANA

50. Plaintiff, Renee Messana repeats, realleges, and incorporates paragraphs 1-49 of this complaint as if fully set forth herein.
51. Plaintiff Renee Messana was a housewife at the time of the injury. As part of her duties she cared for her children, cleaned her home, shopped for food and clothing, cooked meals, and attended school and social events with her children. As a result of her injury, she was completely unable to undertake her duties as a mother and

housewife for a period of at least one year..

52. To date, Plaintiff Renee Messana is unable to perform in the capacity as a housewife to the same degree she had performed prior to the injury.

**COUNT X**  
**IMPAIRMENT OF EARNING COMPACITY**  
**PAUL MESSANA**

53. Plaintiff, Paul Messana repeats, realleges, and incorporates paragraphs 1-52 of this complaint as if fully set forth herein.
54. Plaintiff Messana was, and is currently a firefighter for the city of Everett, Massachusetts.
55. After his wife was injured he was unable to return to work and lost significant time from work.
56. Prior to his wife's injury, Mr. Messana often accepted overtime assignments with the city of Everett and also worked as a roofer. Mr. Messana declined this additional work for a period of approximately six months following his wife's injury. Paul Messana had to forego additional income from either offers of overtime work for the city of Everett and furthermore declined roofing jobs for a period of at least six months following his wife's injury.

COUNT XI  
LOSS OF CONSORTIUM  
PAUL MESSANA

57. Plaintiff, Paul Messana repeats, realleges, and incorporates paragraphs 1-56 of this complaint as if fully set forth herein.
58. Plaintiff, Paul Messana, the husband of Renee Messana, was deprived of his conjugal relationship, companionship, support and intimacy from Renee Messana for approximately one year following the injury as a result of Defendant's negligence.
59. Plaintiff Messana was deprived of his wife's company and society on his weekly visits to his parents and visiting friends. He was unable to complete his vacation in Maine in 2002 after the injury. His family now refuses to go camping, an activity that he had enjoyed with his family for many years prior to July 1, 2002..
60. Plaintiff Messana had to assume many of the duties formerly undertaken by his wife with respect to child care, cleaning and cooking.

COUNT XII  
LOSS OF CONSORTIUM  
PAUL DEMEO

61. Plaintiff, Paul DeMeo repeats, realleges, and incorporates paragraphs 1-60 of this

complaint as if fully set forth herein.

62. Paul DeMeo, son of Renee Messana, a minor at the time of injury, was deprived of his mother's companionship, support, guidance, nurture, society and care as a result of the Defendant's negligence.

COUNT XIII  
LOSS OF CONSORTIUM  
RAYMOND MESSANA

63. Plaintiff Paul Messana, as next friend of Raymond Messana, repeats, realleges, and incorporates paragraphs 1-62 of this complaint as if fully set forth herein.
64. Raymond Messana, son of Renee Messana, was deprived of his mother's companionship, support, guidance, nurture, society and care as a result of the Defendant's negligence.

COUNT XIV  
LOSS OF CONSORTIUM  
ARIANA MESSANA

65. Plaintiff Paul Messana, as next friend of Ariana Messana, repeats, realleges, and incorporates paragraphs 1-64 of this complaint as if fully set forth herein.
66. Ariana Messana, daughter of Renee Messana, was deprived of her mother's

companionship, support, guidance, nurture, society and care as a result of the Defendant's negligence.

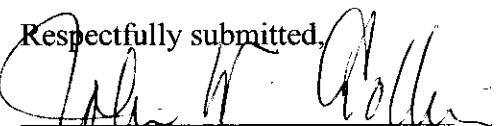
**WHEREFORE**, the Plaintiffs, Renee Messana, Paul DeMeo, Paul Messana, individually and as next friend of Raymond Messana and Ariana Messana, demand judgment against the Defendant for the full amount of their damages in such amount as this court may deem proper, together with interest, costs and attorney's fees as follows:

- A) Plaintiff Renee Messana on Counts I, II, III, IV and VIII.
- B) Plaintiff Paul DeMeo on Counts II, III, V, and XI.
- C) Plaintiff Paul Messana, Individually, on Counts II, III, VII, X, and XI.
- D) Plaintiff Paul Messana, as Next Friend of Raymond Messana on Counts II, III, VI, and XIII.
- E) Plaintiff Paul Messana, as Next Friend of Ariana Messana on Counts II, III, VIII, and XIV.
- F) Any other remedy this Honorable Court deems necessary and just.

**JURY DEMAND**

PLAINTIFFS HEREBY DEMAND A TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted,

  
The Plaintiffs,  
By their Attorney,  
John W. Collier  
200 Monsignor O'Brien Highway  
Cambridge, MA 02141  
(617) 441-2121 ext. 2  
BBO # 092010

Dated: September 1, 2004

JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Renee Messana, Paul DeMeo, Paul Messana, Individually and as Next Friend of Raymond Messana and Ariana Messana

(b) County of Residence of First Listed Plaintiff Middlesex  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

Acres of Wildlife Campground, Inc.

County of Residence of First Listed Cumberland (ME)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

John W. Collier  
200 Monsignor O'Brien Highway  
Cambridge, MA 02141  
17-441-2121 X2

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 0 Insurance <input type="checkbox"/> 120 Marine <input checked="" type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defrauded <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage <input type="checkbox"/> 390 Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark		
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS v. Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fcc Determination of Equal Access to Justice <input type="checkbox"/> 950 C. Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court

Transferred from another district  
(specify)

6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28 U.S.C. 1332

Damages in excess of \$75,000.00. Plaintiff Renee Messana suffered severe injuries to her head, neck and facial bones when a tree in Defendant's campground fell on her while she lay in a tent.

VII. REQUESTED IN  CHECK IF THIS IS A CLASS ACTION  DEMAND \$  CHECK YES only if demanded in complaint:  
COMPLAINT: UNDER F.R.C.P. 23  JURY DEMAND:  Yes  No

VIII. RELATED CASE(S) (See instructions):  
IF ANY

JUDGE  
E

DOCKET NUMBER

DATE

August 31, 2004  
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #  AMOUNT  APPLYING IFF  JUDGE  MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Messana v. Acres of Wildlife Campground, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

\*Also complete AO 120 or AO 121  
for patent, trademark or copyright cases

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO 

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO 

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO 

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO 7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES  NO A. If yes, in which division do all of the non-governmental parties reside?Eastern Division  Central Division  Western Division 

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division 

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO 

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME John W. CollierADDRESS 200 Monsignor O' Brien Highway Cambridge, MA 02141TELEPHONE NO. 617-441-2121 X2